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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,569	09/28/1999	BARRY SHEPARD	10836.39US01	2929

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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/407,569

Applicant(s)

SHEPARD ET AL.

Examiner

Akiba K Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/15/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. In response to the communication received on 10/15/02, the following is a final office action. Claims 1-106 remain pending in this application and have been examined on the merits. Claims 1-106 are rejected. The previous rejection has basically been repeated with the exception of minor additions in order to clarify the rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 10-15, 18-25, 28-33, 36-42, 45-50, 53-60, 63-68, 71-77, 80-85, 88-95, 98-103, 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (US Patent 5,424,945) and further in view of Massand et al (US Patent 5,251,131).

As per claims 1, 19, 36, 54, 71, 89, Bell discloses:

Outputting from the computer system to a user one or more of the particular visual representations...(Col. 4, lines 29-34, Col. 17, lines 5-7, Col. 2, lines 31-43).

Receiving from the user classification information...(Col. 15, lines 9-18 w/Col. 24, lines 45-48, where user's answers are analogous to the classification information since these answers are directly connected to algorithms, which are used to assign

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psychological values to visual representations through point scores [see col. 7, lines 46-51]. In Bell, it is shown that the assignment of psychological values to visual representations such as colors is done using the Nippon scheme, which classifies certain color combinations. Therefore, for visual representations such as a color, when the user's answers are received, algorithms representing classification information of colors are derived);

Storing the classification information...(Col. 22, lines 14-25, where the point score information is also analogous to the classification information since the point scores are derived from the algorithms, [see Col. 17, lines 56-60] and as described above, for a visual representation such as a color, the algorithms represent classification information);

The received classification information for one or more of the plurality of visual representations is distilled in order to identify the related cues that influence human behavior...(Col. 16, lines 29-46 and Col. 17, lines 46-60, where the act of point scoring is analogous to the distilling limitation).

Bell fails to teach the following, however Massand et al discloses:

Wherein, by cross-referencing through access to the database the received classification information for one or more of the outputted particular visual representations...(Col. 41, lines 50-57).

It would have been obvious to one of ordinary skill in the art to cross-reference through access to the database the received classification information for one or more of the outputted particular visual representations with the classification information for one or

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more of other visual representations the motivation of properly classifying the received information into the proper group.

Bell fails to disclose, however Massand et al discloses the following:

A plurality of computer terminals.../a network of computer systems.../a plurality of computer systems...(Col. 8, lines 33-44).

It would have been obvious to one of ordinary skill in the art to connect a computer system to a plurality of terminals or to have a plurality of computer systems with the motivation of allowing a plurality of users to quickly and easily access information on a system.

As per claims 2, 20, 37, 55, 72, 90, Bell discloses:

The received classification information for one or more of the outputted particular visual representations is distilled in order to identify the related cues...the distilled cues relate to any determined one or more of the plurality of visual representations...(Col. 16, lines 29-46, Col. 17, lines 46-60).

As per claims 3, 21, 38, 56, 73, 91, Bell discloses:

The received classification information for one or more of the outputted particular visual representations includes classification information of one or more elements of the outputted...(Col. 15, lines 9-18).

The distilled cues relate to any determined one or more of the elements...(Col. 15, lines 18-26).

As per claims 4, 22, 39, 57, 74, 92, Bell fails to disclose the following, however Massand et al discloses:

Further comprising inputting a database of a plurality of selected particular visual representations whereby, the selected particular visual representations can be altered...(Col. 3, lines 38-47).

It would have been obvious to one of ordinary skill in the art to input a database of a plurality of selected particular visual representations whereby the selected particular visual representations can be altered by the user with the motivation of keeping track of the selection of visual representations for modification purposes.

As per claims 5, 6, 23, 24, 40, 41, 58, 59, 75, 76, 93, 94 Bell fails to disclose the following, however Massand et al discloses:

Wherein the database of the selected particular visual representations is created by the user...Wherein the database of the selected particular visual representation is inputted from such a database created by a third party...(Col. 25, lines 35-40).

It would have been obvious to one of ordinary skill in the art for the database of the selected particular visual representations to be created by the user and also inputted from such a database created by a third party with the motivation of allowing the user to create a database which has access to outside or third party records.

As per claims 7, 25, 42, 60, 77, 95, Bell fails to disclose the following, however Massand et al discloses:

Wherein each visual representation in the database is associated with an agent that identifies relationships...(Col. 41, lines 58-62).

It would have been obvious to one of ordinary skill in the art for each visual representation in the database to be associated with an agent that identifies

relationships between one or more of the particular visual representations and one or more of the other visual representations stored in the database with the motivation of calculating the difference between a human's perception and an average reaction to determine actual human behavior.

As per claims 10, 13, 28, 31, 45, 48, 63, 66, 80, 83, 98, 101, Bell discloses:

Comprising capturing responses from the user related to one or more of the outputted particular visual representations.../comprising capturing responses from a third party...(Col. 24, lines 38-45).

As per claims 11, 29, 46, 64, 81, 99, Bell discloses:

Wherein the response comprises a description of at least one of the one or more outputted particular visual representations...(Col. 24, lines 50-54).

As per claim 12, 30, 47, 65, 82, 100, Bell discloses:

A description of an emotion of the user when viewing one or more of the outputted...(Col. 24, lines 55-56).

Bell fails to disclose the following, however Massand et al discloses:

A rational for ranking...(Col. 6, line 57-Col. 7, line 11).

It would have been obvious to one of ordinary skill in the art to have a rational for ranking a set of one or more outputted particular visual representations against a specific desired perception and any one of its opposite with the motivation of determining the reason why certain visual representations were chosen in a particular order.

As per claims 14, 32, 49, 67, 84, 102, Bell discloses:

Processing the received classification information...outputting from the computer system an initial desired perception...(Col. 16, lines 29-46, Col. 17, lines 46-60);

Collecting user observations and rationale...(Col. 21, lines 52-67);

Bell fails to disclose the following, however Massand et al discloses:

Outputting from the computer system different visual representations to be chosen...(Col. 4, lines 6-16).

It would have been obvious to one of ordinary skill in the art to output from a computer system different visual representations to be chosen by one or more users as the best representative samples that reinforce that desired perception with the motivation of determining the representations that will most likely get chosen.

As per claims 15, 33, 50, 68, 85, 103, Bell discloses:

further comprising refining the desired perception to represent a more clearly focused desired perception...(Col. 18, line 22-Col. 19, line 28).

As per claims 18, 53, 88, 106, Bell fails to disclose, however Massand et al discloses the following:

Further comprising connecting the computer system to a plurality of terminals via a network...(Col. 8, lines 33-44).

It would have been obvious to one of ordinary skill in the art to connect a computer system to a plurality of terminals with the motivation of allowing a plurality of users to quickly and easily access information on a system

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4. Claims 8, 9, 26, 27, 43, 44, 61, 62, 78, 79, 96, 97, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (US Patent 5,424,945) in further view of Massand et al (US Patent 5,251,131) and further in view of Fan (US Patent 4,930,077).

As per claims 8, 26, 43, 61, 78, 96, Bell discloses:

The classification information for one or more of the outputted particular visual representations comprises ratings...(Col. 16, lines 29-46).

Both Bell and Massand et al fail to disclose the following, however Fan discloses:

The system processes the ratings in order to determine an average rating for each outputted particular visual representation...(Col. 22, lines 57-63).

It would have been obvious to one of ordinary skill in the art to determine an average rating for each outputted particular visual representation with the motivation of eventually calculating the normal human reaction to a visual representation.

As per claims 9, 27, 44, 62, 79, 97, Bell discloses:

The classification information for one or more of the outputted particular visual representations comprises ratings...(Col. 16, lines 29-46);

Both Bell and Massand et al fail to disclose the following, however Fan discloses:

The system processes the rating in order to identify a ranking of one or more of the outputted particular visual representations...(Col. 32, lines 24-28 and lines 34-39 and lines 46-47).

It would have been obvious to one of ordinary skill in the art to processes the rating in order to identify a ranking of one or more of the outputted particular visual representations with the motivation of identifying the level of importance of particular reaction.

5. Claims 16, 17, 34, 35, 51, 52, 69, 70, 86, 87, 104, 105, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (US Patent 5,424,945) in further view of Massand et al (US Patent 5,251,131) and further in view of Frost (US Patent 5,041,972).

As per claims 16, 34, 51, 69, 86, 104, neither Bell or Massand et al disclose the following, however Frost discloses:

Creating a set of visual concepts...outputting from the computer system a perceptual map...enabling the user to place each of the set of visual concepts on the perceptual map...(Col. 5, line 61-Col. 6, line 4, and Col. 12, line 62-Col. 13, line 7).

It would have been obvious to one of ordinary skill in the art to place a set of visual concepts on a perceptual map with the motivation of allowing a user to actually visualize and be able to determine one visual concept from another.

As per claims 17, 35, 52, 70, 87, 105, neither Bell or Massand et al disclose the following, however Frost discloses:

Analyzing the placement of the visual concepts on the perceptual map; and organizing the visual concepts...(Col. 13, lines 8-16).

It would have been obvious to one of ordinary skill in the art to analyze the placement of the visual concepts on the perceptual map and also to organize the visual concepts with

the motivation of allowing a user to actually visualize and be able to manipulate visual concepts to make the visualization and the determination of behavior easier.

Response to Arguments

6. Applicant's arguments filed 10/15/02 have been fully considered but they are not persuasive.

As per claim 1, the applicant argues that because the evaluation system disclosed in Bell is an automated computer system, Bell does not disclose or suggest output to or input from a user to evaluate a document. However, Bell discloses that a set of objective questions may be asked of a user and that the answers to these questions are received from the user in order to determine a psychological effect according to algorithms relating to the visually-perceptible characteristic of image data (See Col. 24, lines 41-47). The receipt of this type of information is analogous to input from a user to evaluate a document where the document is represented by the image data.

The applicant also argues that Bell fails to disclose or suggest outputting from a computer system to a user visual representations. However, Bell discloses the output of visual representations in Col. 2, lines 31-43. Here, Bell describes that documents having both text and graphical data are created for a *visual* impression. In addition, Col. 17, lines 1-7 describes that fact that documents can be printed out by a personal computer.

Lastly, the applicant argues that Bell fails to disclose or suggest receiving from the user classification information. However, this classification information is shown through the user's answers. In this case the user's answers to the objective questions are analogous to classification information since these answers are directly connected to algorithms, which are used to assign psychological values to visual representations through point scores (Col. 7, lines 46-51). In Bell, it is shown that the assignment of psychological values to visual representations such as colors is done using the Nippon scheme, which classifies certain color combinations. Therefore, for visual representations such as a color, when the user's answers are received, algorithms representing classification information of colors are derived.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday through Friday, 8:30 am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.

December 16, 2002



TARIQ R. HAFIZ
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